

**TERMS AND CONDITIONS
FOR
PROFESSIONAL SERVICES**

Rev. 04092007, Doc. #1005

1. **SCOPE OF SERVICES**

As described in the Purchase Order Item Description and referenced attachments if any.

2. **TERM OF CONTRACT**

As described in the Purchase Order Item Description and referenced attachments if any.

3. **COMPENSATION**

Total compensation is as described in the Purchase Order Item Description and referenced attachments if any.

The Provider shall prepare and submit invoices documenting services provided as required by the City's Managing Authority. The invoices shall be accompanied by such documentation as may be required by the Managing Authority.

Payments will be made conditioned upon the satisfactory performance of all work. In the event that the City determines the Provider to be in nonconformance with the terms of this Contract or if in the City's judgment the Provider's work is not satisfactory, the City may take corrective action, including but not limited to the following:

- (1) Delay of payment
- (2) Adjustment of payment
- (3) Suspension or termination of this Contract

4. **MANAGEMENT:** This contract will be managed for the City As described in the Purchase Order Item Description and referenced attachments, his designee or successor (the Managing Authority).

The Provider and the City shall work closely together in all aspects of this program, and each shall follow reasonable suggestions of the other to improve the operation of the program.

5. **INTENT:** It is the intent of this Contract to secure the services of the Provider or a duly authorized and competent representative or representatives of the Provider acceptable to the City. Failure of the Provider for any reason to make the service of such a person or persons available to the City to the extent necessary to perform the services required skillfully and promptly shall be cause for termination of this Contract. All persons engaged in the work required under this Contract shall be authorized or permitted under State law and the ordinances of the City to perform such services, as required by law.

6. **LEGAL STATUS:** If the Provider is a corporation or other legal business entity, it must have a current license to do business in the State of Connecticut that is on file with the Connecticut Secretary of State's office, or it must be organized under the laws of the State of Connecticut and current in terms of its required filings. Evidence acceptable by Procurement Manager must, when required, be filed with the Procurement Manager before performance of contract is started.

7. **INSURANCE REQUIREMENTS:** A certificate of insurance must be presented to the City in order for this Contract to take effect. The certificate must name the City as an additional insured on the face of the document and must bear the original signature of an authorized Agent for the Producer. All policies must be written on a "per occurrence"

basis. The Provider is responsible for the cost of maintaining such insurance throughout the duration of the project. Insurance requirements are detailed in document #1008, Miscellaneous Services Insurance Requirements, attached as Exhibit B.

8. **TERMINATION**: The City may at any time, and for any reason, in its sole discretion, direct the discontinuance of the services and work contemplated under this Contract for a period of time. Such direction shall be in writing and shall specify the period during which the work shall be discontinued. The work shall be resumed on the dates specified in such direction, or upon such other date as the City may thereafter specify in writing. The period during which such work shall have been discontinued shall be deemed added to the time for performance. In the event that the City directs the discontinuance of the services hereunder for a period of time in excess of six (6) months, through no fault of the Provider, the parties may negotiate an adjustment in the fees payable hereunder due to a rise in the cost of performance. Stoppage of work under this article shall not give rise to any claim against the City.

The City may at any time and for any reason, with or without cause, in its sole discretion, terminate this Contract by written notice specifying the termination date, which shall be not less than seven (7) days from the date such notice is given. In the event of such termination, services shall be paid for in such amount as shall compensate the Provider for the portion of the work satisfactorily performed prior to termination. Such amount shall be fixed by the City after consultation with the Provider, and shall be subject to audit by the City's Comptroller. Termination under this section shall not give rise to any claim against the City for damages or for compensation in addition to that provided hereunder.

9. **ASSIGNMENT**: The Provider shall not assign or subcontract this Contract or any of the services to be performed by it hereunder without prior consent of the City in writing. The Provider shall be as fully responsible to the City for the acts and omissions of its subcontractors as it is for the acts and omissions of people directly employed by it. The Provider shall require any subcontractor approved by the City to agree in its contract to observe and be bound by all obligations and conditions of this Contract to which Provider is bound.

10. **DEFAULT**: Any of the following occurrences or acts shall constitute an Event of Default under this Contract:

a. If default shall be made by the Provider, its successors or assigns, in the performance or observance of any of the covenants, conditions or agreements on the part of the Provider set forth in this Contract; or

b. If any determination shall have been made by competent authority such as, but not limited to, any federal, state or local government official, or a certified public accountant, that the Provider's management or any accounting for its funding, from whatever source, is improper, inadequate or illegal, as such management or accounting may relate to the Provider's performance of this contract; or

c. If a decree or order by a court having jurisdiction in the matter shall have been entered adjudging the Provider a bankrupt or insolvent or approving as properly filed a petition seeking reorganization, readjustment, arrangement, composition or similar relief for the Provider under the federal bankruptcy laws, or any other similar applicable federal or state law; or

d. If any competent authority shall have determined that the Provider is in default of any federal, state or local tax obligation.

e. Pursuant to a Resolution passed by the Court of Common Council on September 12, 1983, default on the part of any outstanding debt owed to the City by the Provider shall be considered just cause for termination of this Contract. Default shall be considered to have occurred when a monthly payment required by a repayment agreement is thirty (30) or more days late.

11. **INDEMNIFICATION:** Provider shall not assert any claim arising out of any act or omission by any agent, officer or employee of the City in the execution or performance of this Contract against any such agent, officer or employee.

a. The Provider will indemnify the City for any damages or costs to which it may be put by reason of injury to the person or property of another resulting from the performance, non-performance, negligence or carelessness in the performance of the contract or in failure to comply with any provisions of the contract.

b. The Provider expressly agrees to at all times indemnify, defend and save harmless the City of Hartford and its respective officers, agents, and employees on account of any and all demands, claims, damages, losses, infringement of patent rights, litigation, financial costs and expenses, including counsel fees, and compensation arising out of personal injuries (including death), any damage to property, real or personal and any other loss, expense or aggrievement directly or indirectly arising out of, related to or in connection with the Project and the work to be performed hereunder by the Provider, its employees, agents, subcontractors, material suppliers, or anyone directly or indirectly employed by any of them. The Provider shall and does hereby assume and agree to pay for the defense of all such claims, demands, suits, proceedings and litigation, including costs and attorneys fees. The provisions of this paragraph shall survive the expiration or early termination of this Contract and shall not be limited by reason of any insurance coverage.

12. **CONFLICT OF INTEREST:** No member of the governing body of the City, and no other officer, employee, or agent of the City shall have any personal interest, direct or indirect, in this Contract, and the Provider covenants that no person having such interest shall be employed in the performance of this Contract.

13. **ANTI-DISCRIMINATION AND AFFIRMATIVE ACTION:**

The Provider agrees to abide by the provisions of Section 2-679 et seq. of the City of Hartford Municipal Code (as applicable), Executive Orders Number 3 and 17 of the State of Connecticut; and Presidential Executive Orders Number 11246, 11375 and 11063. In carrying out this program, the Provider shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, mental disability, physical handicap, or sexual preference.

The Provider shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment without regard to their race, color, religion, age, sex, national origin, mental disability, physical handicap, or sexual preference. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training; including apprenticeship. The Provider shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government, setting forth the provisions of the non-discrimination clause.

The Provider shall state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, age, sex, national origin, mental disability, physical handicap, or sexual preference. The Provider shall incorporate, or

cause to be incorporated, this provision in any and all subcontracts entered into pursuant to this Contract. The Provider agrees to abide by the terms and conditions contained in the City of Hartford's Bidder's EEO Report.

14. **PERFORMANCE EVALUATION:** The Provider understands that during the course of and at the conclusion of the work that the City will evaluate its overall performance. Based on information gathered from the Managing Authority, the Procurement Manager will assess factors including, but not limited to, quality of work or service, completion record, job supervision, working relationship with other providers, bills for extras, organization, cooperation, worksite cleanliness, and compliance with City ordinances including W/MBE requirements. The Provider further understands and agrees that this record will be available for public scrutiny both in the project file and on the City's web site for a minimum of two years. The Provider will not contest the Procurement Manager's decision, which will be final.
15. **APPLICABLE LAW:** This Contract shall be construed in accordance with the laws of the State of Connecticut, the Charter and Regulations of the City of Hartford. Links to many of these laws and regulations are located at:
<http://www.hartford.gov/purchasing/Documents.htm>.
16. **COMPLIANCE WITH LAW:** The Provider shall comply with all applicable laws, regulation, ordinances and codes of the United States, the State of Connecticut and the City of Hartford, and shall commit no trespass on any private property in performing any of the work embraced by this Contract.
17. **MEDIATION AND ARBITRATION:** In the event a dispute arises out of or relates to this Contract or the breach thereof and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by a single person selected by the parties. Any dispute arising in connection with this Contract, that is not resolved or settled through mediation as referenced above shall be settled by arbitration. The Provider and the City shall each choose an arbitrator, and the two arbitrators thus chosen shall select a third arbitrator. The findings and award of the three arbitrators thus chosen shall be final and binding on the parties hereto, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Arbitration shall be held in Hartford, Connecticut.
18. **ACTION AGAINST THE CITY:** No action shall lie or be maintained against the City by the Provider or anyone claiming under the Provider upon any claim arising out of or based upon this contract or by reason of any act or omission or requirement of the City or its agents, unless such action shall be commenced within six months after the expiration of the contract period stipulated herein; but in the event that this contract is terminated by the Procurement Manager, pursuant to Paragraph 8 of this contract, such action shall be commenced within six months after the date of such termination by the Procurement Manager. Action to recover any monies required to be retained on this contract for a specified period shall be commenced within six months after such monies become due and payable under the terms of this contract.
19. **AMENDMENTS:** The City may, from time to time, request changes in the scope of services to be performed by the Provider hereunder. Any such change, including any increase or decrease in the amount of the Provider's compensation, which are mutually agreed upon by and between the City and the Provider, shall be incorporated in a written amendment to this Contract.
20. **CUMULATIVE REMEDIES:** All rights exercisable by and remedies of the City hereunder shall be cumulative and the exercise or beginning of the exercise by the City of any of its rights or remedies hereunder shall not preclude the City from exercising any

other right or remedy granted hereunder or permitted by law.

21. **SUCCESSORS & ASSIGNS**: The City and the Provider each binds itself and its successors and assigns with respect to all covenants of this Contract. The Provider shall not assign or transfer any interest in this Contract without the prior written approval of the City.
22. **INVALID PROVISIONS**: If any provision of this Contract is held invalid, the balance of the provisions of this Contract shall not be affected thereby if the balance of the provisions of the Contract would then continue to conform to the requirements of applicable laws.
23. **NON-WAIVER**: Any failure by the City or the Provider to insist upon the strict performance by the other of any of the terms and provisions hereof shall not be a waiver, and each party hereto, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by the other, of any and all of the terms and provisions of the Contract and neither party hereto shall be relieved of such obligation by reason of the failure of the other to comply with or otherwise enforce or to seek to enforce any of the provisions of this Contract.
24. **INDEPENDENT PROVIDER**: Provider, including its' employees, is an independent Provider and shall not be regarded as an employee or agent of the City.
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25. **ESTABLISHMENT AND MAINTENANCE OF RECORDS**: The Provider agrees to establish and maintain fiscal control and accounting procedures that assure proper accounting for all funds paid by the City to the Provider under this Contract. The Provider agrees that all records with respect to all matters covered by this Contract shall be maintained during the term of this Contract, and for a minimum of three years following termination, including any renewal or extension.
26. **AUDITS**: At any time during normal business hours, and as often as may be deemed necessary, the Provider shall make available to the City, for examination, all records with respect to all matters covered by this Contract.
27. **REPORTS AND INFORMATION**: The Provider shall furnish the City with such information and reports concerning the progress and management of this work as may be required from time to time. The form of said reports shall be determined by the City consistent with the City's requirements.
28. **ADVERTISING**: Providers may not reference sales to the City of Hartford for advertising and promotional purposes without the prior approval of Procurement Services.
29. **LICENSES AND PERMITS**: The Provider certifies that for the duration of contract performance, he shall have and provide proof of permits and licenses as required by the City of Hartford Department of Code Enforcement and/or other City, State or Federal regulatory bodies as applicable.
30. **DELIVERY AND INVOICING**: City's order number must be shown on all packages, invoices and correspondence. I
31. **PAYMENT**: Payment will be made to the Provider within thirty (30) days after receipt by the City of acceptable invoice with appropriate supporting documentation. The acceptance, by the Provider or by any person claiming under the Provider, of the final payment as approved by the Director of Finance shall operate as and be a release to the City from all claims of and liability to the Provider and to the Provider's representatives

and assigns for anything done, furnished for or relating to the contract or for any act or omission of the City or of any person relating to or affecting the contract except such sums as may be retained by the City under the maintenance or guarantee provisions of this contract. The City shall have the right, during the course of the Provider's services and for a period of two years after completion of the services, to examine Provider's records to verify all direct charges, expenses and disbursements made or incurred by Provider in connection with the services.

32. **NON-APPROPRIATION OF FUNDS:** It is assumed that City departments that enter into an Contract with the Provider have obtained approval, authority and funding to make the initial payment(s) during the current fiscal year. The department's ability to make subsequent payments may be contingent upon the appropriation of funds by the relevant government entity or legislative authorities of funds for this purpose. If such additional funds are not so appropriated either the Provider or the City may terminate this contract as of the first day of the applicable subsequent fiscal year in which such funds were not made available. The City agrees not to effect such termination for the sole purpose of replacing the work product with an equivalent product supplied by others.

33. **TAXES:** The City is exempt from Connecticut Sales Tax under G.S. Sect. 12-412(A), Federal excise taxes, and the provisions of the Federal Robinson-Patman Act.

In accordance with Chapter 2, Section 2-548(a)(4) of the Municipal Code of the City of Hartford, the Provider must be current in all tax obligations to the City of Hartford. A Provider found to be delinquent in the payment of personal or real property taxes, or found to be the owner of an interest of twenty-five percent (25%) or more in a corporation that is delinquent in the payment of personal or real property taxes shall be required to submit a plan whereby the Provider will make current all arrearage of taxes. Such plan shall include a schedule of payments sufficient to make such Provider current within a time period satisfactory to the City's Operating Officer.

34. **OWNERSHIP OF PRINTED MATERIAL AND OTHER PRODUCTS:** The City of Hartford has sole and exclusive right and title to all printed material, art work and any other product produced for the City under contract. The original artwork and/or any plates or computer files used in preparing and completing the work shall be considered property of the City of Hartford whether supplied by or created for the City. All artwork and electronic files shall be returned with the completed job. The Provider shall not copyright any printed matter produced under the contract and shall be responsible for the safekeeping of all printing plates, returning them to the City upon request.

35. **NOTIFICATION:** All notices of any nature referred to in this Contract shall be in writing and sent to:

As to the City:

Mark C. Turcotte, Procurement Manager
City of Hartford, Procurement Services
550 Main Street
Hartford, CT. 06103

As to the Provider:

As identified in the Purchase Order and attachments, if any.

As to the Managing Authority:

As identified on the Purchase Order

36. **DOCUMENTS FORMING THE CONTRACT**

As described in the Purchase Order Item Description and referenced attachments if any.

37. **COUNTERPARTS**: This Contract may be executed and delivered in any number of counterparts, and such counterparts taken together shall constitute one and the same instrument.

38. **ENTIRE CONTRACT**: This Contract and its attachments constitute the entire understanding and Contract of the parties respecting the subject hereof and supersede any and all agreements, negotiations, commitments and writings reached by the parties prior to the execution of this Contract, whether oral or written. No change or modification of this Contract shall be valid unless it is in writing and signed by both parties hereto.

IN WITNESS THEREOF, the PROVIDER acknowledges these terms.

For the Provider:

Signed - _____ Date - _____

Print Name -

Title - _____
(duly authorized corporate officer)

Witnessed - _____ Date - _____

Print Name -